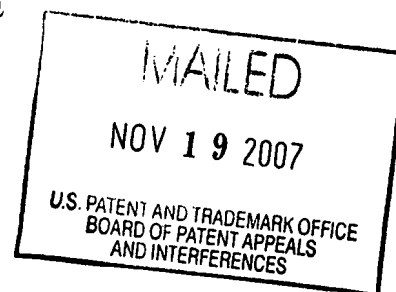


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte: GEORGE MOCKRY AND GREGORY MOCKRY

Application No. 09/878,860

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on November 19, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

Appellant filed an Appeal Brief dated January 22, 2007, in response to the Notification of Non-Compliant Appeal Brief mailed November 14, 2006. The Appeal Brief is not in compliance with 37 CFR § 41.37(c) effective September 13, 2004.

37 CFR § 41.37(c) states in part in part:

(iii) *Status of claims*. A statement of the status of all the claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

(v) *Summary of claimed subject matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the

specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Status of Claims” section does not properly identify the appealed claims.

The “Summary of claimed subject matter” appearing on page 2 of the Appeal Brief filed January 22, 2007, is deficient because it does not map independent claims 22, 24, 35 and 38 to the specification.

CONCLUSION

Accordingly, it is


ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed January 22, 2007, defective;
- 2) notify the appellant to submit a Supplemental Appeal Brief which corrects the Appeal Brief, Status of Claims under 37 § 41.37(c)(1)(iii), Summary of Claimed Subject Matter under 37 § 41.37(c)(1)(v) and Grounds of Rejection to be Reviewed on Appeal;
- 3) acknowledgement and consideration of any Supplemental Appeal Brief that may be submitted by Appellant in response to the Notice of Non-Compliance to correct the Appeal Brief as required by 37 § 41.37(c)(1)(v); and

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4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/tsj

cc: HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEEN ST.
DENVER, CO 80202